(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 583 OF 2003.

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mrs. A.A. Agni, Advocate for the Petitioners.

Mr. D. Pangam, Advocate for the Respondent.

CORAM : A.M. KHANWILKAR, J.

DATE : 9TH JANUARY, 2004.

P.C.:

The Writ Petition has been filed impugning the Order of the Appellate Court which has set aside the Order granted by the Trial Court granting temporary injunction to the petitioners.

The Appellate Court has considered the equities and has found that the balance of convenience would indicate that if the retaining laterite wall is allowed to remain, the property of the respondent would be damaged and

therefore has set aside the Order granted by the Trial Court.

After hearing the Advocates for some time, I am of the view that there is no need to interfere with the Order of the Appellate Court although it was urged on behalf of the petitioners that the Appellate Court ought not to have interfered with the order without finding that the Trial Court's order was capricious and arbitrary in view of the Judgment of the Supreme Court in **Wander Ltd. and another v. Antox India P. Ltd.** reported in 1990 (Supp) Supreme Court Cases, 727. The Appellate Court has considered all the factors and has come to the conclusion that such a relief cannot be granted.

In view of the above, the Writ Petition stands dismissed. No order as to costs.

sl. **NISHITA MHATRE, J.**